

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

COPY

3 -----X
4 GERARD SILLAM and ALDRIC
5 SAULIER,

6 Plaintiff, Case No.
7 -against- 21VC6675 (CM)

8 LABATON SUCHAROW LLP, CHRISTOPHER J.
9 KELLER, and LAWRENCE A. SUCHAROW,
10 Defendants.

-----X

11 Zoom Video Communications

12 June 13, 2023
13 2:00 p.m.

14 EXAMINATION BEFORE TRIAL of CHRISTOPHER J. KELLER,
15 a Defendant herein, taken by the Plaintiff, pursuant
16 to Article 31 of the Civil Practice Law & Rules of
17 Testimony, and Court Order, held at the above-mentioned
18 time and place, before Joanna Martinez a Notary Public
19 of the State of New York.

20
21
22
23 SANDY SAUNDERS REPORTING
24 254 South Main Street, Suite 216
25 New City, New York 10956
(845) 634-7561

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S:

RAISER & KENNIFF, P.C.
Attorney for Plaintiff
300 Old Country Road, Suite 3501
Mineola, New York 11501
(888) 646-0025
BY: DOUGLAS REDA, ESQ.

GANTER SHORE LEEDS & ZAUDERER, LLP
Attorney for Defendant
360 Lexington Avenue
New York, New York 10017
(212) 922-9240
EMAIL: iramatesky@ganfershore.com
BY: IRA MATESKY, ESQ.

ALSO PRESENT:

Mark Zauderer, Michael Canty, James Christie

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective parties
hereto, that the filing, sealing and certification
of the within deposition shall be and the same are
hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form of the
question, shall be reserved to the time of the
trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed before any
Notary Public with the same force and effect as if
signed and sworn to before the Court.

* * *

1 C H R I S T O P H E R K E L L E R, after having
2 first been duly sworn by a Notary Public of the
3 State of New York, was examined and testified as
4 follows:

5 BY THE STENOGRAPHER:

6 Q State your name for the record, please.

7 A Christopher Keller.

8 Q State your address for the record, please.

9 A 15 William Street, New York, New York
10 10005.

11 THE STENOGRAPHER: Before I swear in the
12 witness, I will ask counsel to stipulate on the
13 record, that the court reporter may swear in
14 the deponent even though they are not in the
15 physical presence of the deponent, and that
16 there is no objection to that at this time, nor
17 will there be an objection to it at a future
18 date.

19 MR. MATESKY: Yes. Yes, that's fine. I'd
20 also like to state for the record that although
21 we're doing this deposition on Zoom so that we
22 can see each other, no one is recording this
23 Zoom. The stenographer's written stenographic
24 transcript will be the only record of
25 deposition.

1 Q This paragraph doesn't create the
2 substantive obligation to pay any money, correct?

3 MR. REDA: The document speaks for itself.

4 MR. MATESKY: It spoke for itself when you
5 asked two hours worth of questions about it.
6 It's going to speak while I ask another three
7 minutes of questions.

8 MR. REDA: Three minutes, that will be the
9 day.

10 A Yes.

11 Q Thank you.

12 Now, let's look at the previous
13 paragraph, which is headed C. It says, "Potential
14 fees from additional and/or future litigation." And
15 let me ask you to read that paragraph to yourself
16 and let me know when you're done.

17 A Okay.

18 Q By the way, Mr.Redda didn't ask you any
19 questions about this paragraph, that I recall; is
20 that right?

21 MR. REDA: Is that a question or just a
22 comment.

23 MR. MATESKY: That's a question.

24 A I don't recall that he did.

25 Q Okay. Is this the paragraph that creates

1 Labaton's obligation, if there is one, to pay money
2 based on a percentage of legal fees earned?

3 A That's what it says.

4 Q Okay. I just want to go through this
5 language with you. It says, "Labaton acknowledges,
6 understands, and agrees that in consideration for
7 the full and final release in waiver given by the
8 Alfonso clients as provided herein, as well as the
9 confidential arbitration agreement between the
10 parties, as set forth herein, that the Alfonso
11 clients shall have and maintain a limited duration
12 interest. The limited interest in an amount equal
13 to 15 percent of the gross fees paid to Labaton in
14 any matter in which Labaton is engaged to represent
15 any of the, quote, potential clients who are
16 potential clients at the time representation is
17 initiated either in pre-litigation or in litigation
18 as confirmed by the schedule attached to the
19 settlement identified as Exhibit 1." It's a long
20 sentence. But do you see that?

21 A Yes.

22 Q Do you see the reference "direct
23 representation either in pre-litigation or in
24 litigation"?

25 A Correct.

1 Q It doesn't say post-litigation there, does
2 it?

3 A No.

4 Q The filing of a proof of claim for an
5 absent class member doesn't happen before the
6 litigation, does it?

7 A No.

8 Q It doesn't happen while the case is being
9 actively litigated, either, correct?

10 A That is correct.

11 Q Okay. Now, the next sentence says, "Such
12 limited interest will exist if any of the potential
13 clients retained Labaton within five calendar years
14 from the date on which this settlement agreement is
15 executed, the five-year term."

16 Do you see that?

17 A Uh-huh, yes.

18 Q And this agreement is executed, we can
19 agree, December 30th and 31st of 2009.

20 Is it fair to say based on that
21 language, that if a client had asked Labaton to file
22 proofs of claims for it before December 2009, even
23 if proofs of claim hypothetically are included, it
24 wouldn't be covered by that time period?

25 A Yes, that's how that agreement is written.

1 Q Last question about this. It says, "And
2 will be paid subject to the full terms of this
3 agreement in any matter in which Labaton
4 representing any of the potential clients or obtains
5 any judgment or settlement (prior to or after the
6 commencement of litigation by any such potential
7 client anywhere in the world) at any time."

8 Do you see that sentence?

9 A I do.

10 Q Now, if an absent class member files a
11 proof of claim, will that absent class member have
12 commenced litigation anywhere in the world in that
13 case?

14 A Of course not.

15 Q And the proof of claim filings we were
16 talking about are filings on behalf of absent class
17 members, not the named plaintiff; is that correct?

18 A That's correct.

19 Q We also talked -- or Mr. Reda also
20 discussed with you class action procedure.

21 Securities class actions are
22 typically litigated on a contingency basis, correct?

23 A That's correct.

24 Q If Labaton or a law firm is designated to
25 be lead counsel but the case is dismissed, the law

1 firm doesn't make any money, correct?

2 A That is correct.

3 Q If the law firm is -- soon to become
4 designated as lead counsel, but it's unsuccessful,
5 the court appoints somebody else, then typically
6 that law firm isn't going to make any money in that
7 case, correct?

8 A That's correct.

9 Q Now, there's a procedure where the court
10 designates from among the applicant who is going to
11 to be the lead plaintiff and who is going to be the
12 lead counsel?

13 MR. REDA: Objection.

14 A Correct.

15 Q As part of that process, does the client
16 or -- the client that wants to be named a lead
17 plaintiff submit certain information to the court?

18 A Yes.

19 Q Typically, they could do that in the form
20 of a declaration or affidavit?

21 A Sure, yes.

22 Q And would that be filed with the federal
23 court and become a matter of public record on the
24 ECF PACER system?

25 A Yes.

1 Q Is that declaration filed by an applicant
2 to be lead plaintiff where you might look to see who
3 that would-be plaintiff has designated as their
4 counsel in the case?

5 A That's correct.

6 Q Did an entity called KBC ever retain
7 Labaton to represent it as a lead plaintiff or would
8 be lead plaintiff in a class action?

9 A No.

10 Q In fact, KBC has its own regular outside
11 counsel that represents any class action, correct?

12 MR. REDA: Objection.

13 A That's true. We do not represent KBC. I
14 wish I did, but we don't.

15 (Whereupon, 2015 settlement, Plaintiff's
16 Exhibit 7 was deemed marked for
17 Identification.)

18 Q Okay. Please turn to Exhibit 7. That's
19 the 2015 settlement. And when you have Exhibit 7,
20 please turn to paragraph -- page 2, paragraph B.

21 A Okay.

22 Q And you see there, it says, "The
23 consideration for Universal release"?

24 A Uh-huh, I do.

25 Q And there are two bullet points there?

1 A Yes.

2 Q The timely single payment of \$99,999.99?

3 A That's correct.

4 Q That's the money you paid?

5 A Yes.

6 Q And the second paragraph is the assignment
7 of Labaton's interest in an Italian litigation
8 called Saipem.

9 Do you see that?

10 A That's correct.

11 Q Is buying back that interest the following
12 year what 5,000 euros was paid for?

13 A That's correct.

14 Q And my last question --

15 MR. REDA: Let's take a 30-second break.

16 (Whereupon, a recess was taken.)

17 Q Let's just turn back to Exhibit 4. And
18 just to pin down a point that we made a few moments
19 ago, is it fair to say that the reporting obligation
20 under paragraph 1 is broader than the fee obligation
21 under paragraph C?

22 A I'm sorry, what exhibit are we on?

23 Q We're back to 4.

24 A Okay.

25 Q And we talked a few moments ago about

1 paragraph C, which creates a fee obligation -- a
2 potential obligation to pay fees, and paragraph 1,
3 which creates a reporting obligation.

4 A Right, right, of course.

5 Q Is it fair to say that the reporting
6 obligation appears to be broader than the fee
7 payment obligation?

8 A Yes, it does.

9 Q Turn to paragraph 7 -- I'm sorry, Exhibit
10 7 -- my correction. We just covered that. Turn to
11 Exhibit 6, that's the declaration.

12 Mr. Keller, the claim in the
13 complaint in this case is that Labaton Sucharow,
14 LLP, the law firm, and you committed fraud when you
15 sent these declarations.

16 Was it your intention when you sent
17 these declarations to be truthful and accurate?

18 A Absolutely.

19 Q Did you intentionally misstate any facts
20 in these declarations?

21 A Not one.

22 Q Was it your intention to commit fraud?

23 A It was not.

24 MR. MATESKY: I have no further questions.

25 MR. REDA: A couple of questions,